

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RICHARD HART,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

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No. 4:09-CV-1946 CAS

ORDER

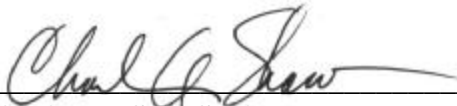
Pending before the Court is defendant United States of America's motion to strike plaintiff's jury demand in the above-captioned cause of action. Plaintiff did not respond to the government's motion, and the time to do so has long expired. Therefore, the motion is ripe for review.

On November 25, 2009, this case was removed from state court. At the time, there were several defendants named in the complaint, including, Dr. Yi Pan, Tenet HealthcareSystem SL, Inc., Allergan, Inc., and Allergan USA, Inc. On May 17, 2010, the undersigned granted Dr. Pan's motion to dismiss and for substitution of the United States of America as defendant under the Federal Torts Claim Act, 28 U.S.C. § 2679(d)(1). April 19, 2011, plaintiff filed an Amended Complaint against the United States of America under the Federal Torts Claims Act, 28 U.S.C. § 1346(b). Plaintiff brings no other claims against any other defendant. As pointed out by the government in its motion, the language of 28 U.S.C. § 2402 provides that "any action against the United States under section 1346 shall be tried by the court without a jury" Under the authority of this statute, the government's motion will be granted.

The parties should be aware, however, that should this case proceed to trial and issues of fact remain, the Court may at its discretion empanel an advisory jury panel. Nothing in this Order changes the requirements of the Case Management Order entered in this case.

Accordingly,

IT IS HEREBY ORDERED that defendant United States of America's motion to strike plaintiff's jury demand is **GRANTED**. [Doc. 69]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 2nd day of November, 2011.